

ESTTA Tracking number: **ESTTA419584**

Filing date: **07/13/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	MacKellar Associates, Inc.		
Entity	Corporation	Citizenship	Michigan
Address	1729 Northfield Drive Rochester Hills, MI 48309 UNITED STATES		

Attorney information	Julie A. Greenberg Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C. P.O. Box 7021 Troy, MI 48007 UNITED STATES litigation@patlaw.com Phone:248-647-6000
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Registration Subject to Cancellation

Registration No	3969326	Registration date	05/31/2011
Registrant	The Blanket Lady, LLC 605 LOCUST LANE NORTH WEST CHESTER, PA 19380 UNITED STATES		

Goods/Services Subject to Cancellation


Class 037. First Use: 1996/04/00 First Use In Commerce: 1996/04/00
All goods and services in the class are cancelled, namely: Cleaning and repairing horse blankets

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85248871	Application Date	02/22/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE BLANKET LADY		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 024. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Blankets, throws, childrens blankets, baby blankets, personalized blankets, gift blankets, pet blankets, towels, washcloths</p> <p>Class 035. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Retail store services, online store services featuring personalized gifts, blankets, accessories, collectibles, baby gifts, commemorative gifts, toys, diaper bags, baby clothes, plush toys, bibs, baby rattles</p>
Attachments	<p>85248871#TMSN.jpeg (1 page)(bytes)</p> <p>MAI-10070_28.Petition.for.Cancellation.pdf (22 pages)(1096499 bytes)</p>

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Julie A. Greenberg/
Name	Julie A. Greenberg
Date	07/13/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,969,326

Date of Registration: May 31, 2011

MacKellar Associates, Inc.,
d/b/a The Blanket Lady,

Petitioner,

Cancellation No.

vs.

The Blanket Lady, LLC,

Registrant.

_____ /

PETITION FOR CANCELLATION

MacKellar Associates, Inc., Petitioner herein, a corporation of Michigan, having a principal place of business at 1729 Northfield Drive, Rochester Hills, Michigan 48309, believes that it has been and will be damaged by Registration No. 3,969,326 for the mark THE BLANKET LADY (the "Registration"), and hereby petitions to cancel the registration of the mark for these goods.

As grounds for this Petition, it is alleged that:

1. The Petitioner owns and extensively uses the mark THE BLANKET LADY ("Petitioner's Mark") for a variety of goods, including, without limitation, blankets, knit gifts, baby and child accessories, pet gifts and accessories, and personalized gifts and accessories. Petitioner's use has been continuous since at least as early as 1978. Attached hereto as Exhibit A are documents showing Petitioner's use of the mark.

2. On July 1, 2010, many decades after Petitioner's first use of THE BLANKET LADY Mark, Registrant, The Blanket Lady, LLC, applied for registration of the identical mark

THE BLANKET LADY, in International Class 37, for cleaning and repairing horse blankets. Registrant's application was based on a first use date of 1996, and eventually registered as U.S. Reg. No. 3,969,326 (hereafter referred to as the "Registration"), a status and title copy of which is attached as Exhibit B.

3. Petitioner owns Application Serial No. 85/248,871 for "THE BLANKET LADY" filed on February 22, 2011, for blankets, throws, childrens blankets, baby blankets, personalized blankets, gift blankets, pet blankets, towels, washcloths; Retail store services, online store services featuring personalized gifts, blankets, accessories, collectibles, baby gifts, commemorative gifts, toys, diaper bags, baby clothes, plush toys, bibs, baby rattles, based on first use of 1978 (hereinafter referred to as "Petitioner's Application"). Petitioner's Application has been refused under Section 2(d) on the basis of the Examiner's conclusion that the mark of Petitioner's Application is likely to be confused with mark of the Registration. This pending Section 2(d) refusal is the source of damage to Petitioner. A copy of the Office Action in Petitioner's application Serial No. 85/248,871 is attached hereto as Exhibit C.

4. Petitioner has invested substantial resources in connection with the development and promotion of THE BLANKET LADY Mark and the goodwill associated therewith, and considers THE BLANKET LADY Mark, its associated goodwill, and its related Application for Registration of same, to constitute an extremely valuable assets.

5. If the Registrant is permitted to retain the Registration sought to be canceled, Petitioner will be damaged as a result. In particular, Petitioner will be deprived of the rights to which it is entitled, including but not limited to the exclusive right to use and to register its mark, based on its prior common law use of THE BLANKET LADY Mark, begun many decades before the first use by Registrant of the mark of the Registration.

6. If the Registrant is permitted to retain the registration sought to be canceled, a cloud will be placed on Petitioner's title in and to its mark THE BLANKET LADY and on its right to enjoy the free and exclusive use thereof as it relates to its goods. Such a conflicting registration is and will continue to be a source of damage and injury to the Petitioner.

WHEREFORE, the Petitioner prays that this Petition for Cancellation be sustained, and that Registration No. 3,969,326 be canceled. Petitioner hereby gives notice that it will rely on its exhibits annexed to this Petition for Cancellation as evidence in support of this Petition for Cancellation.

The filing fee of this cancellation in the amount of \$300.00 is enclosed.

Petitioner hereby appoints the attorneys of Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C., a law firm having a place of business at 2701 Troy Center Drive, Ste. 330, P.O. Box 7021, Troy, Michigan 48007, to act as attorneys for Petitioner herein, with full power to prosecute said cancellation, to transact all relative business in the United States Patent and Trademark Office and in the United States courts, and to receive all official communications in connection with this cancellation.

Respectfully submitted,

By: /s/Julie A. Greenberg
Julie A. Greenberg
GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
2701 Troy Center Drive, Ste. 330
P.O. Box 7021
Troy, MI 48007
(248) 647-6000
(248) 647-5210 (Fax)
litigation@patlaw.com
Attorneys for Petitioner

Dated: July 13, 2011

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **PETITION FOR CANCELLATION** was deposited as First Class Mail, postage prepaid in an envelope addressed to:

Elliott J. Stein
Stevens & Lee, P.C.
100 Lenox Drive, Suite 200
Lawrenceville, New Jersey 08648-2332

on this 13th day of July, 2011.

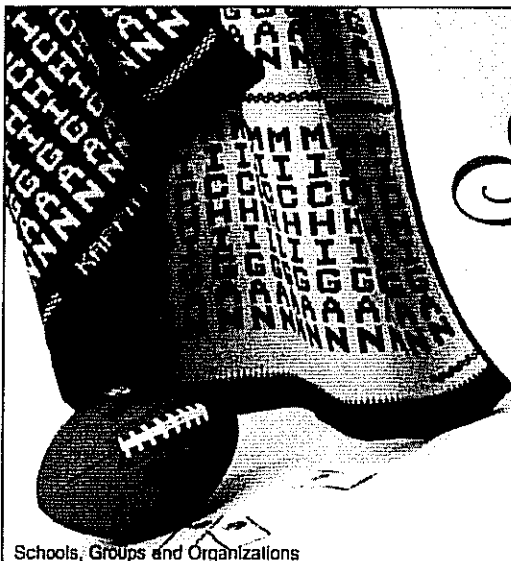
/s/Julie A. Greenberg
Julie A. Greenberg
GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
2701 Troy Center Drive, Ste. 330
P.O. Box 7021
Troy, MI 48007
(248) 647-6000
(248) 647-5210 (Fax)
litigation@patlaw.com
Attorneys for Petitioner

CERTIFICATE OF ELECTRONIC FILING

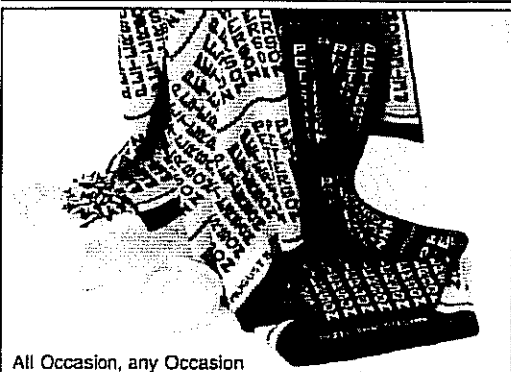
I hereby certify that the foregoing **PETITION FOR CANCELLATION** was electronically filed with the TTAB on this 13th day of July, 2011.

/s/Julie A. Greenberg
Julie A. Greenberg
GIFFORD KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
2701 Troy Center Drive, Ste. 330
P.O. Box 7021
Troy, Michigan 48007-7021
docket@patlaw.com
(248) 647-6000
(248) 647-5210 - Facsimile

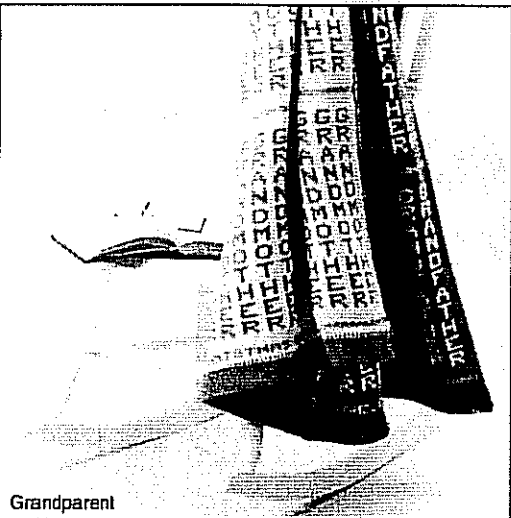
EXHIBIT A



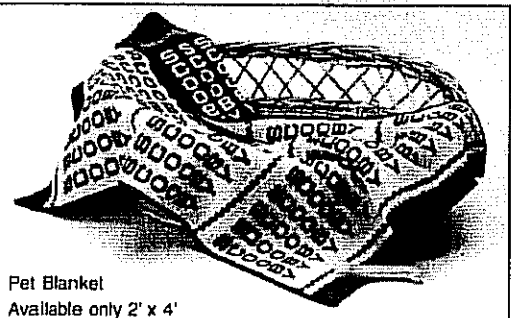
Schools, Groups and Organizations



All Occasion, any Occasion



Grandparent



Pet Blanket

Available only 2' x 4'

Personalized Blankets

Nothing touches the heart like a personalized blanket. These quality blankets are made of 100% premium acrylic and are machine washable and dryable. Available in two sizes, they can be customized to fit any occasion:

- Weddings
- Birthdays
- Bar/Bat Mitzvahs
- Graduations
- Confirmations
- Stadium Blankets
- Anniversaries
- Retirements
- Grandma/Grandpa
- And Much More!

- 100% Satisfaction Guaranteed
- Long-Lasting
- Baby Soft & Warm
- Machine Wash & Dry
- Personalized
- 100% Premium Acrylic
- Heirloom Quality
- Fits End of Double or Twin Bed
- Treasured Keepsake

Regular 4' x 4'6"

Extended Length 4' x 5'6"

Choose from a large variety of colors on our website or call us toll-free for a free color chart.

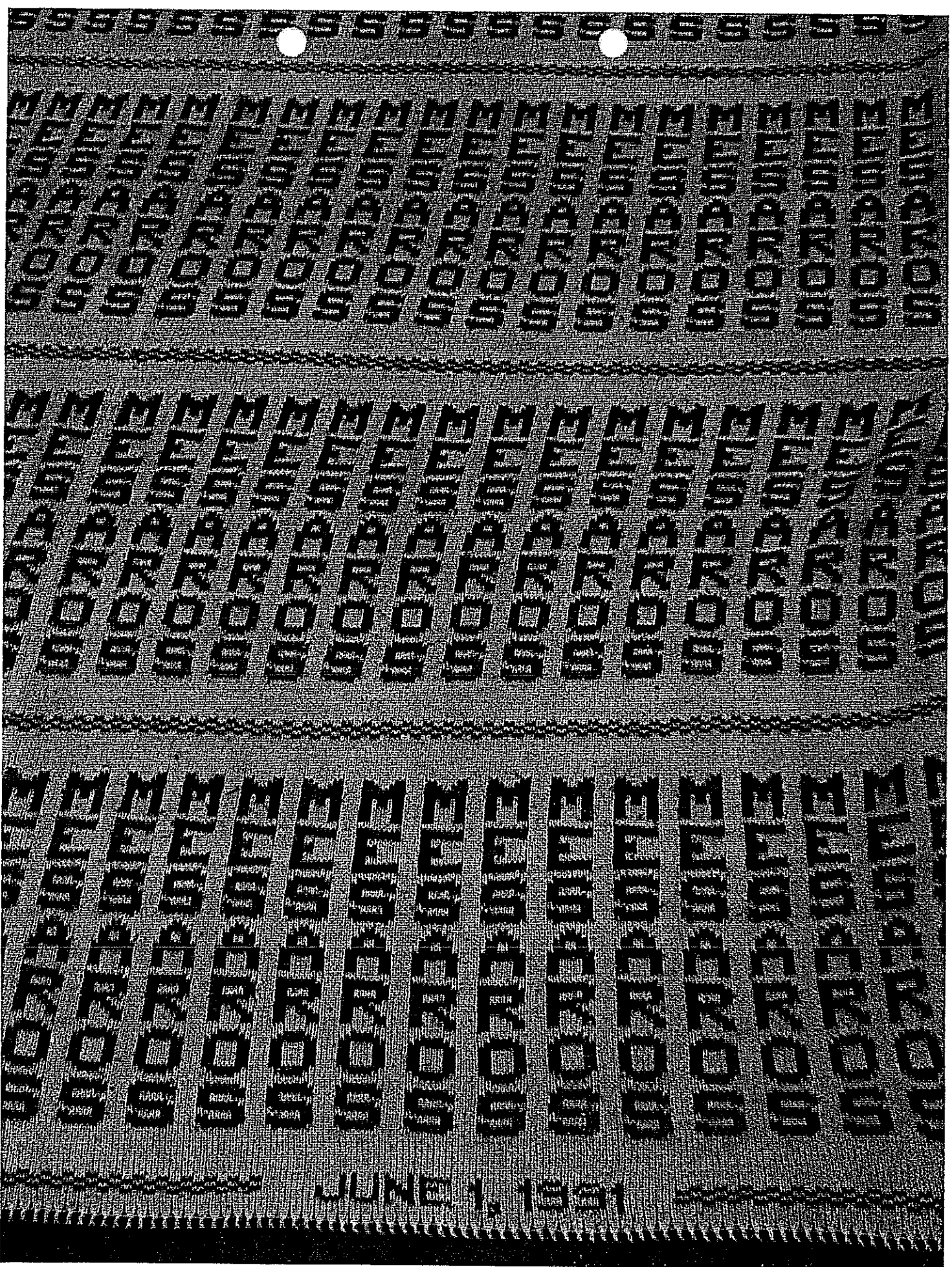
The
BLANKET
A Division of MacKellar Associates, Inc.
Lady

1573 South Telegraph, Bloomfield Hills, MI 48302

TOLL FREE 877-877-7228

www.blanketlady.com





JUNE 1, 1951

EXHIBIT B

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-07-06 17:06:02 ET

Serial Number: 85076389 Assignment Information Trademark Document Retrieval

Registration Number: 3969326

Mark

THE BLANKET LADY

(words only): THE BLANKET LADY

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2011-05-31

Filing Date: 2010-07-01

Transformed into a National Application: No

Registration Date: 2011-05-31

Register: Principal

Law Office Assigned: LAW OFFICE 105

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-05-31

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. The Blanket Lady, LLC

Address:

The Blanket Lady, LLC
605 LOCUST LANE NORTH
WEST CHESTER, PA 19380
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: Pennsylvania

GOODS AND/OR SERVICES

International Class: 037

Class Status: Active

Cleaning and repairing horse blankets

Basis: 1(a)

First Use Date: 1996-04-00

First Use in Commerce Date: 1996-04-00

ADDITIONAL INFORMATION

Disclaimer: "BLANKET"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-05-31 - Registered - Principal Register

2011-04-22 - Extension Of Time To Oppose Process - Terminated

2011-01-06 - Extension Of Time To Oppose Received

2010-12-07 - Notice Of Publication E-Mailed

2010-12-07 - Published for opposition

2010-11-02 - Law Office Publication Review Completed

2010-11-02 - Assigned To LIE

2010-10-19 - Approved for Pub - Principal Register (Initial exam)

2010-10-12 - Assigned To Examiner

2010-07-07 - New Application Office Supplied Data Entered In Tram

2010-07-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Elliott J. Stein

Correspondent

ELLIOTT J. STEIN

STEVENS & LEE, P.C.

100 LENOX DR STE 200

LAWRENCEVILLE, NJ 08648-2332

Phone Number: 609 987 7050

Fax Number: 610 371 8506

United States of America

United States Patent and Trademark Office

THE BLANKET LADY

Reg. No. 3,969,326

Registered May 31, 2011

Int. Cl.: 37

SERVICE MARK

PRINCIPAL REGISTER

THE BLANKET LADY, LLC (PENNSYLVANIA LIMITED LIABILITY COMPANY)
605 LOCUST LANE NORTH
WEST CHESTER, PA 19380

FOR: CLEANING AND REPAIRING HORSE BLANKETS, IN CLASS 37 (U.S. CLS. 100, 103 AND 106).

FIRST USE 4-0-1996; IN COMMERCE 4-0-1996.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BLANKET", APART FROM THE MARK AS SHOWN.

SER. NO. 85-076,389, FILED 7-1-2010.

JOHN E. MICHOS, EXAMINING ATTORNEY



David J. Kypos

Director of the United States Patent and Trademark Office

EXHIBIT C

To: MacKellar Associates, Inc. (docket@patlaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85248871 - THE BLANKET LADY - MAI-10019/28
Sent: 5/24/2011 10:25:59 AM
Sent As: ECOM114@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

APPLICATION SERIAL NO. 85248871

MARK: THE BLANKET LADY

85248871

CORRESPONDENT ADDRESS:

JULIE A. GREENBERG
GIFFORD, KRASS, SPRINKLE, ANDERSON

CLICK HERE TO RESPOND TO THIS LETTER:
http://www.uspto.gov/trademarks/teas/response_forms.jsp

& CIT

PO BOX 7021
TROY, MI 48007-7021

APPLICANT: MacKellar Associates, Inc.

CORRESPONDENT'S REFERENCE/DOCKET

NO:

MAI-10019/28

CORRESPONDENT E-MAIL ADDRESS:

docket@patlaw.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 5/24/2011

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

Summary of Issues

- Search results and prior pending application
- Substitute specimen requirement
- Identification and classification of goods and services
- Disclaimer requirement

Search Results and Prior Pending Application

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no similar registered mark that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d). However, a mark in a prior-filed pending application may present a bar to registration of applicant's mark.

The filing date of pending Application Serial No. 85076389 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

Substitute Specimen Requirement

The web catalog or web page specimen is not acceptable to show trademark use as a display associated with the goods because it fails to include the mark in close proximity to a picture or textual description of the goods/the necessary ordering information and thus, appears to be mere advertising material. *See In re Sones*, 590 F.3d 1282, 1286-89, 93 USPQ2d 1118, 1122-24 (Fed. Cir. 2009); *In re Genitope Corp.*, 78 USPQ2d 1819, 1822 (TTAB 2006); *In re Dell Inc.*, 71 USPQ2d 1725, 1727-29 (TTAB 2004); TMEP §904.03(h), (i); *cf. Lands' End, Inc. v. Manbeck*, 797 F. Supp. 511, 513-14, 24 USPQ2d 1314, 1316 (E.D. Va. 1992). Specifically, the mark appears in a location on the web page that denotes the name of the online retail store rather than as a source for the goods. *In re Supply Guys, Inc.*, 86 USPQ2d 1488 (TTAB 2008) (the mark ITUNES found to be the name of the website retail services rather than the source of the goods).

Material that functions merely to tell prospective purchasers about the goods, or to promote the sale of the goods, is not acceptable to show trademark use. TMEP §904.04(b). Leaflets, handbills, brochures, advertising circulars and other advertising material, while normally acceptable for showing use in connection with services, generally are not acceptable specimens for showing trademark use in connection with goods. *See In re MediaShare Corp.*, 43 USPQ2d 1304, 1307 (TTAB 1997); *In re Schiapparelli Searle*, 26 USPQ2d 1520, 1522 (TTAB 1993); TMEP §§904.04(b), (c), 1301.04.

However, a web catalog, web page, or similar specimen, which is otherwise a form of advertising, is acceptable to show trademark use as a display associated with the goods if it includes (1) a picture of the relevant goods or a textual description that identifies the actual features or inherent characteristics of the

goods such that the goods are recognizable, (2) the mark appearing sufficiently near the picture or textual description of the goods so as to associate the mark with the goods, and (3) information necessary to order the goods (e.g., an order form or offer to accept orders via phone or e-mail) or a visible weblink to order the goods. *See In re Sones*, 590 F.3d at 1286-89, 93 USPQ2d at 1122-24; *In re Genitope*, 78 USPQ2d at 1822; *In re Dell*, 71 USPQ2d at 1727-29; TMEP §904.03(h), (i); *cf. In re MediaShare*, 43 USPQ2d at 1305-07; *Lands' End*, 797 F. Supp. at 513-14, 24 USPQ2d at 1316. Without this necessary information, the specimen is mere advertising and is not acceptable to show use in commerce for goods. *See, e.g., In re Osterberg*, 83 USPQ2d 1220, 1222-24 (TTAB 2007); *In re Genitope*, 78 USPQ2d at 1822.

An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each class of goods. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a). Section 45 requires use of the mark “on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto.” 15 U.S.C. §1127; *see* 37 C.F.R. §2.56(b)(1); TMEP §§904.03, 904.04(b), (c).

Therefore, applicant must submit the following:

- (1) A substitute specimen showing the mark in use in commerce for each class of goods specified in the application; and
- (2) The following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**The substitute specimen was in use in commerce at least as early as the filing date of the application.**” 37 C.F.R. §2.59(a); TMEP §904.05; *see* 37 C.F.R. §2.193(e)(1). If submitting a substitute specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c); TMEP §904.05.

Examples of specimens for goods are tags, labels, instruction manuals, containers, or photographs that show the mark on the actual goods or packaging. *See* TMEP §§904.03 *et seq.*

If applicant cannot satisfy the above requirements, applicant may amend the application from a use in commerce basis under Section 1(a) to an intent to use basis under Section 1(b), for which no specimen is required. *See* TMEP §806.03(c). However, if applicant amends the basis to Section 1(b), registration will not be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use with a proper specimen. *See* 15 U.S.C. §1051(c), (d); 37 C.F.R. §§2.76, 2.88; TMEP §1103.

To amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods listed in the application as of the filing date of the application.” 37 C.F.R. §2.34(a)(2); TMEP §806.01(b); *see* 15 U.S.C. §1051(b); 37 C.F.R. §§2.35(b)(1), 2.193(e)(1).

Pending receipt of a proper response, registration is refused because the specimen does not show the applied-for mark in use in commerce as a trademark. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Identification and Classification of Goods and Services

The wording “personalized blankets, gift blankets” in the identification of goods is unacceptable as

indefinite and too broad. *See* TMEP §1402.01. Specifically, the wording does not make clear the nature of the articles that are included. Also, the wording could include goods in more than one International Class. Therefore, applicant must amend the identification to specify the common commercial name of the goods. If there is no common commercial name, applicant must describe the product and its intended uses. *See id.* See suggestions in bold below.

The word “online store services” in the identification of services is indefinite and must be clarified. *See* TMEP §1402.01. Specifically, applicant must with greater specificity the nature of the service, e.g., “on-line retail store services featuring ...” See suggestion in bold below.

Applicant may adopt the following identification of goods, if accurate:

Personalized **electric blankets not for medical purposes**, gift **electric blankets not for medical purposes** in International Class 11.

Personalized [**specify, e.g., horse, saddle**] blankets, gift [**specify, e.g., horse, saddle**] blankets in International Class 18.

Blankets, throws, childrens blankets, baby blankets, personalized [**specify, e.g., bed**] blankets, gift [**specify, e.g., bed**] blankets, pet blankets, towels, washcloths in International Class 24.

Personalized **infant wearable** blankets, gift **infant wearable** blankets in International Class 25.

Retail store services, online **retail** store services featuring personalized gifts, blankets, accessories, collectibles, baby gifts, commemorative gifts, toys, diaper bags, baby clothes, plush toys, bibs, baby rattles in International Class 35.

See TMEP §1402.01.

Class Fees

The filing fees for adding classes to an application are as follows:

(1) \$325 per class, when the fees are submitted with an electronic response filed online at <http://www.uspto.gov/teas/index.html>, via the Trademark Electronic Application System (TEAS);
or

(2) \$375 per class, when the fees are submitted with a paper response.

37 C.F.R. §2.6(a)(1)(i)-(a)(1)(ii); TMEP §§810, 1403.02(c).

Additions to Identification Not Permitted

An applicant may amend an identification of goods and services only to clarify or limit the goods and services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07 *et seq.*

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>. *See* TMEP §1402.04.

Section 1(a) Requirements for Combined Applications

For an application with more than one international class, called a “multiple-class application,” an applicant must meet all of the requirements below for those international classes based on use in commerce:

- (1) LIST GOODS/SERVICES BY INTERNATIONAL CLASS: Applicant must list the goods/services by international class;
- (2) PROVIDE FEES FOR ALL INTERNATIONAL CLASSES: Applicant must submit an application filing fee for each international class of goods and/or services not covered by the fee(s) already paid (confirm current fee information at <http://www.uspto.gov>, click on “View Fee Schedule” under the column titled “Trademarks”); and
- (3) SUBMIT REQUIRED STATEMENTS AND EVIDENCE: For each international class of goods and/or services, applicant must also submit the following:
 - (a) DATES OF USE: Dates of first use of the mark anywhere and dates of first use of the mark in commerce, or a statement that the dates of use in the initial application apply to that class. The dates of use, both anywhere and in commerce, must be at least as early as the filing date of the application.;
 - (b) SPECIMEN: One specimen showing the mark in use in commerce for each international class of goods and/or services. Applicant must have used the specimen in commerce at least as early as the filing date of the application. If a single specimen supports multiple international classes, applicant should indicate which classes the specimen supports. Examples of specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the actual goods or packaging, or displays associated with the goods at their point of sale. *See* TMEP §§904.03 *et seq.* Examples of specimens for services are signs, photographs, brochures, website printouts, or advertisements that show the mark used in the actual sale or advertising of the services. *See* TMEP §§1301.04 *et seq.*;
 - (c) STATEMENT: The following statement: “The specimen was in use in commerce on or in connection with the goods and/or services listed in the application at least as early as the filing date of the application.”; and
 - (d) VERIFICATION: Applicant must verify the statements in 3(a) and 3(c) (above) in an affidavit or signed declaration under 37 C.F.R. §2.20. Verification is not required where (1) the dates of use for the added class are stated to be the same as the dates of use specified in the initial application, and (2) the original specimens are acceptable for the added class(es).

See 15 U.S.C. §§1051(a), 1112, 1127; 37 C.F.R. §§2.32(a)(5), 2.34(a)(1), 2.56(a), 2.71(c), 2.86(a), 2.193(e)(1); TMEP §§1403.01, 1403.02(c).

With respect to the specimen requirement in 3(b) above in which a specimen is required for each international class of goods and/or services, the specimen of record is acceptable for International Class 35 only. Applicant must submit additional specimens if different international classes are added to the application.

Disclaimer Requirement

Applicant must disclaim the descriptive wording "BLANKET" apart from the mark as shown because it merely describes the goods themselves as blankets and the subject matter of the services, namely the retail of blankets, all as identified in the goods and services statement. *See* 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a).

The computerized printing format for the Office's *Trademark Official Gazette* requires a standardized format for a disclaimer. TMEP §1213.08(a)(i). The following is the standard format used by the Office:

No claim is made to the exclusive right to use "BLANKET" apart from the mark as shown.

TMEP §1213.08(a)(i); *see In re Owatonna Tool Co.*, 231 USPQ 493 (Comm'r Pats. 1983).

United States Patent and Trademark Office
/William T. Verhosek/
William T. Verhosek
Law Office 114
571-272-9464
william.verhosek@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

Print: May 24, 2011

85076389

Issue: May 31, 2011

DESIGN MARK

Serial Number

85076389

Status

PUBLISHED FOR OPPOSITION

Word Mark

THE BLANKET LADY

Standard Character Mark

Yes

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

The Blanket Lady, LLC LIMITED LIABILITY COMPANY PENNSYLVANIA 605
LOCUST LANE NORTH WEST CHESTER PENNSYLVANIA 19380

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Cleaning
and repairing horse blankets. First Use: 1996/04/00. First Use In
Commerce: 1996/04/00.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BLANKET" APART FROM
THE MARK AS SHOWN.

Filing Date

2010/07/01

Examining Attorney

MICHOS, JOHN E.

Attorney of Record

Elliott J. Stein

THE BLANKET LADY

To: MacKellar Associates, Inc. (docket@patlaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85248871 - THE BLANKET LADY - MAI-10019/28
Sent: 5/24/2011 10:26:03 AM
Sent As: ECOM114@USPTO.GOV
Attachments:

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

**USPTO OFFICE ACTION HAS ISSUED ON 5/24/2011 FOR
SERIAL NO. 85248871**

Please follow the instructions below to continue the prosecution of your application:

TO READ OFFICE ACTION: Click on this [link](http://portal.uspto.gov/external/portal/tow) or go to <http://portal.uspto.gov/external/portal/tow> and enter the application serial number to access the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this e-mail notification.

RESPONSE IS REQUIRED: You should carefully review the Office action to determine (1) how to respond; and (2) the applicable response time period. Your response deadline will be calculated from 5/24/2011 (or sooner if specified in the office action).

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System Response Form.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

Failure to file the required response by the applicable deadline will result in the ABANDONMENT of your application.